

# ABRAMS FENSTERMAN

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November 4, 2021

By ECF

Honorable Philip M. Halpern  
United States District Judge  
Southern District of New York  
United States Courthouse  
300 Quarropas Street  
White Plains, New York 10601-4150

Re: *Congregation Radin Development Inc. v. Henig*,  
21 Civ. 8691 (PMH)

Dear Judge Halpern:

We represent the appellants on this appeal from the Bankruptcy Court. We are writing to request that the Court deny Mr. Levine's application to be relieved of his default and grant the plaintiffs/appellants' motion for leave to appeal as unopposed.

As Mr. Levine notes, I offered to consent to the relief he requested if his response were to be due in a week and he raised no other issues other than his opposition to the motion. My purpose was to ensure that there was no additional delay in putting this matter before the Court. He would not agree. I'm not sure why.

There is no dispute that Mr. Levine is in default in responding to the motion. On October 18, 2021, the plaintiffs filed a notice of appeal of the Bankruptcy Court's October 4, 2021 order denying the plaintiffs' motion to remand this case to the New York State Supreme Court, Rockland County. *Congregation Radin Development Inc. v. Henig*, 21-7030 (RDD) [dkt. no.35]. On that same day, the plaintiffs filed with the Bankruptcy Court a motion for leave to appeal the order. [dkt. no. 36]. The Clerk of the Bankruptcy Court transferred the notice of appeal and motion for leave to appeal to this Court on October 22, 2021 under 21 Civ. 8691 (PMH).

Rule 8004 of the Federal Rule of Bankruptcy Procedure governs appeals from the Bankruptcy Court to the District Court by leave of court. The rule provides that to appeal an interlocutory order of the bankruptcy court, a party must file a notice of appeal accompanied by a

motion for leave to appeal. Fed. R. Bankr. P. 8004(a). Rule 8004(b)(2) provides that “[a] party may file with the district or BAP clerk a response in opposition or a cross-motion within 14 days after the motion is served.”

The motion for leave to appeal was served on October 18, 2021. Under Rule 8004(b)(2), any opposition or cross-motion was due by November 1, 2021. No such response was filed or served. The appellants therefore respectfully request that the Court grant the motion for leave to appeal as unopposed.

Thank you for your consideration of this request.

Respectfully yours,

Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP  
*Attorneys for Rabbi Mayer Zaks*

  
Robert A. Spolzino

cc: Michael Levine, Esq.  
(By ECF)